IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MANUEL ANTONIO RODRIGUEZ, *
A# 96087056

Petitioner, *

v. * CIVIL ACTION NO. AW-05-696

JOHN ASHCROFT, et al. *

Respondents.

******

MEMORANDUM

At the time this 28 U.S.C. § 2241 Petition for habeas corpus relief was filed in March of 2005, Petitioner was confined at the Dorchester County Detention Center as a Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE") detainee, awaiting removal. He raised a challenge to his removal order, arguing that the Maryland theft conviction which provided the basis for charges of removal was successfully overturned on a writ of error corum nobis. Paper Nos. 1 & 4. Petitioner sought to enjoin his further DHS detention and requested release from confinement. *Id*.

A court-ordered Response has now been filed. Paper No. 5. Respondents seek to substitute the name of ICE Field Office Director Calvin McCormick, as the proper party Respondent. *Id*. Their Motion to Substitute shall be granted.

In addition, Respondents argue that the Petition should be dismissed as moot. They assert that Petitioner was placed in removal proceedings and issued a Notice to Appeal on September 9, 2003, based on his conviction in the Circuit Court for Montgomery County, Maryland for the offense of theft under $500.00 in violation of Md. Code Ann., Art. 27, § 342. Paper No. 5 at Ex. A. According to the record,

Petitioner was ordered removed to El Salvador on December 12, 2003, and waived his right to appeal Immigration Judge Bruce M. Barrett's decision. Paper No. 5 at Ex. B. Respondents do acknowledge, however, that the Circuit Court for Montgomery County granted Petitioner's writ of error coram nobis and vacated his theft conviction. The Vacatur of the conviction was deemed effective for immigration purposes and DHS moved to reopen and terminate Petitioner's administratively final order of removal. On April 26, 2005, Judge Barrett granted the motion and reopened and terminated Petitioner's removal proceeding. *Id*. at Ex. C. Petitioner has been released from DHS custody. *Id*. at Ex. D.

In the instant action, Petitioner attacks his final order of removal and seeks release from confinement. With the termination of his removal proceeding and his release from DHS detention, he has been afforded all requested habeas corpus relief. His Petition has therefore been rendered moot and shall be dismissed. *Jones v. DHS*, 325 F.Supp.2d 551, 554 (E.D. Pa. 2004) (alien's challenge to lawfulness of continued detention rendered moot by removal); *Johnson v. Reno*, 143 F.Supp.2d 389, 390-91 (S.D. N.Y. 2001) (alien's application for writ of habeas corpus was moot, since his detention and removal proceedings were terminated and he was no longer in immigration custody).

A separate Order follows.

Date: April 28, 2005

_____"s"_____
Alexander Williams Jr.
United States District Judge